

## BUILDING LOT TERMINATION EASEMENT

This Building Lot Termination Easement (**BLT Easement**) is sold, granted, and conveyed as of this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by \_\_\_\_\_ and their transferees, successors, heirs and assigns (**Grantors**) to Montgomery County, Maryland, c/o Department of Economic Development, 111 Rockville Pike, Rockville, Maryland 20850 (**Grantee**) for the purpose of forever preserving the agricultural production capability of the agricultural land described herein, pursuant to Chapter 2B of the Montgomery County Code 2004, as amended.

WHEREAS, Chapter 2B of the Montgomery County Code 2004, as amended, and Executive Regulation No. 3-09AM (the Code and the Regulation are jointly referred to as the **BLT Law**) authorize the Grantee to purchase BLT Easements to restrict land to agricultural use;

WHEREAS, the Grantors are the sole owner in fee simple of the agricultural land described in **Exhibits A and A-1** attached hereto and made a part of this BLT Easement, which consists of \_\_\_\_\_ more or less acres and \_\_\_\_\_ development rights, together with buildings and other improvements (**Easement Parcel**);

WHEREAS, the Grantors desire to sell, and the Grantees wish to purchase, a BLT Easement on the Easement Parcel for the purpose of restricting the Easement Parcel to agricultural use;

WHEREAS, the Easement Parcel is eligible for a BLT Easement because it is located in the Rural Density Transfer Zone;

WHEREAS, as required by the BLT Law, the Grantors have subjected \_\_\_\_ development rights to a Transferable Development Rights Easement recorded among the land records of Montgomery County, Maryland in Liber \_\_\_\_\_ at folio \_\_\_\_\_ (**TDRs**) [will subject \_\_\_\_ development rights to a Transferable Development Rights Easement recorded simultaneously herewith (**TDRs**)];

WHEREAS, as required by the BLT Law, the Grantors agree to terminate the on site waste disposal system delineated in **Exhibit B** attached hereto and made a part hereof (**septic absorption area**);

WHEREAS, by subordination agreements recorded simultaneously herewith, all holders of liens or other encumbrances upon the Easement Parcel have agreed to release or subordinate their interests in the Easement Parcel to this BLT Easement and to refrain forever from any action that would be inconsistent with the preservation purposes of this BLT Easement.

Now, therefore, for good and valuable consideration, including the sum of \_\_\_\_\_ and 00/100 DOLLARS (\$0000.00) paid by the Grantee to the Grantors, the sufficiency and receipt of which the Grantors hereby acknowledge, and including the mutual covenants contained herein, the Grantors voluntarily sell, grant and convey to the Grantee, and the Grantee voluntarily accepts, a perpetual BLT Easement on the Easement Parcel pursuant to the requirements of the BLT Law and the provisions of this BLT Easement, exclusively for the purpose of preserving and forever maintaining the agricultural production capacity of the Easement Parcel. The Grantee's payment of the full amount of the monetary consideration to the Grantors under this BLT Easement is subject to the Grantors' full compliance with the

requirements of Paragraph 5, below, "Soil, Water and Forestry Conservation Plans". The portion of the monetary consideration contingent on the Grantors' full compliance with the requirements of Paragraph 5, below, are more particularly identified in **Addendum No. I**, attached hereto and made a part of this BLT Easement.

1. **Prohibited Acts** -- The Grantors covenant that they will not perform, nor knowingly allow others to perform, any act on the Easement Parcel that is inconsistent with the requirements enumerated herein. The Grantors also acknowledge and agree that the Grantee may enforce the requirements of the BLT Easement in any manner permitted by law or equity. However, unless otherwise specified below, nothing in this BLT Easement shall require the Grantors to take any action to restore the condition of the Easement Parcel after any Act of God or other event over which they have no control that adversely impacts the agricultural production of the Easement Parcel. The Grantors acknowledge and agree that the provisions in this BLT Easement do not relieve them of any obligation or restriction on the use of the Easement Parcel imposed by law.

2. **Subdivision of Easement Parcel** -- The Grantors acknowledge and agree that by this BLT Easement they are relinquishing the right to subdivide the Easement Parcel for industrial, commercial, residential and other non-agricultural uses, except as provided in subsections (a) – (f) below:

a. Prior to subdivision, and upon written application to, and approval by, the Agricultural Preservation Advisory Board (**APAB**), the Grantors may subdivide and construct up to a maximum of \_\_\_\_\_ future single family dwellings on the Easement Parcel; however the subdivision for each future single family dwelling may not exceed two acres or the minimum lot size required by zoning and well and septic regulations, whichever is greater, unless a larger size does not interfere with the agricultural character of the Easement Parcel, as determined by the APAB in its sole discretion.

b. The Grantors must retain one development right for each future single family dwelling identified in subsection 2(a). The development rights retained for the future single family dwellings may not be subjected to a TDR Easement or sold, conveyed or transferred by the Grantors to a third party unless approved by the County

c. Except as provided in subsection 2(a), the Easement Parcel may not be further subdivided unless the subdivision is part of an APAB-approved agricultural subdivision.

d. Any future single family dwelling constructed under Paragraph 2 must not use the on-site waste disposal system identified in Exhibit B hereto. Further, any septic absorption area on the Easement Parcel must be separated from any other septic absorption area on the Easement Parcel, including the one identified on Exhibit B, by at least 50 feet.

e. All liens and mortgages on the Easement Parcel, including those to be secured by the future single family dwellings, must be subordinate to this BLT Easement.

f. Upon the prior approval of the APAB, the Grantors may construct houses for tenants fully engaged in the agricultural operations on the Easement

Parcel if such construction does not exceed one tenant house for every one hundred (100) acres **and if the Grantors retain one development right for each tenant house.** Neither the tenant house nor the land on which a tenant house is constructed must be subdivided or conveyed away from the Easement Parcel.

3. Construction of Buildings and Other Structures -- The construction or reconstruction of any building or other structure, except those previously approved by the Grantee, or those existing on the date this BLT Easement is recorded among the land records, is permitted only in accordance with this Paragraph 3.

- a. Fences - Fences for, or related to, agricultural production, may be built anywhere on the Easement Parcel without limitation.
- b. Agricultural Buildings -- Buildings and other structures to be used solely for, or related to, agricultural production, including the sale of farm products raised primarily on the Easement Parcel, but excepting any dwelling, may be built anywhere on the Easement Parcel without the permission of the Grantee.

4. Dumping Material -- The Grantors must not dump ashes, sawdust, bark, trash, rubbish or any other material on the Easement Parcel, however, the Grantors reserve the right to dump any material which is generated by agricultural production on the Easement Parcel during regular agricultural operations.

5. Soil, Water and Forestry Conservation Plans

- a. The Grantors must within two (2) years of [insert settlement date] cause the Easement Parcel to be managed in accordance with an approved agricultural soil and water conservation plan so as to promote the agricultural capability of the land. Further, within two (2) years of [insert settlement date], the Grantors must manage any woodland in accordance with an approved Forest Resource Management Plan. The Grantors may selectively cut or clear cut trees from time to time in accordance with an approved Forest Resource Management Plan in order to insure that the agricultural character of the Easement Parcel will not be altered or its productive capability diminished.
- b. The Grantors must have a Soil Conservation Plan (**Plan**) in place at or before the time that this BLT Easement is recorded among the land records of Montgomery County, Maryland (**recordation date**) and must implement all soil conservation and water quality practices that are required within that Plan within five years of the recordation date. Once the Plan is approved, it must be updated at least every ten (10) years. If revisions to the Plan's implementation schedule are necessary, the implementation schedule may be amended in accordance with the changes requested of, and approved by, the Board of Supervisors of the local soil conservation district; however in all events, the Plan must be fully implemented within five years of the recordation date.
- c. All references to plan approvals, mean approval by the applicable government agencies.

- d. The Grantee's payment of that portion of the consideration under this BLT Easement for the Soil Conservation and Forest Resource Management Plans (see Addendum I) must not be made to the Grantors unless and until both plans are certified by the appropriate government agencies and are implemented by the Grantors.
6. Mining -- The mining or extraction of soil, sand, gravel, rock, fossil fuels or any other mineral substance using any method that disturbs the surface of the land is prohibited without the advance written permission of the Grantee. The Grantee, in its sole discretion, will provide a determination concerning the Grantors' request within a reasonable period of time. The Grantee must not approve the Grantors' request if the Grantee determines that the proposed mining or extraction will diminish or impair the agricultural production capability of the Easement Parcel. However, nothing in this BLT Easement must be interpreted to prevent the Grantors or any third party holding subsurface mineral rights to remove such minerals, including coal, oil and gas, by methods that do not disturb the surface of the land, and to construct facilities necessary for the removal of such mineral; provided however, any third party holding subsurface mineral rights must take no action to adversely impact the agricultural activity on the Easement Parcel or otherwise cause the agricultural production capability of the Easement Parcel to be diminished.
7. Development Rights & TDRs -- [Prior to the recordation of this BLT Easement among the land records] Simultaneous with the recordation of this BLT Easement among the land records, the parties will record a Deed of Transfer of Development Rights of even date herewith in which the Grantors convey to the Grantee \_\_\_\_\_ development rights associated with the Easement Parcel. The Grantors retain \_\_\_\_\_ development rights with the Easement Parcel: one for the single family dwelling currently located on the Easement Parcel and \_\_\_\_\_ for the future single family dwellings (as described in Paragraph 2) to be constructed on the Easement Parcel; however, by executing this BLT Easement, the Grantors acknowledge and agree that the \_\_\_\_\_ development rights retrained with the Easement Parcel and encumbered by this BLT Easement, must remain with the Easement Parcel and that the Grantors forego the right to subject the development rights to a TDR Easement or to sell, convey or transfer the development rights to any third party.
8. Extinguishment of On-Site Waste Disposal System—By executing this Easement, the Grantors acknowledge and agree on behalf of themselves and their transferees, successors, heirs and assigns that they must, in perpetuity, forgo the right to utilize the On-Site Waste Disposal System described in Exhibit B hereto.
9. Rights Retained by the Grantors -- The Grantors reserve the right to perform any act not specifically prohibited or limited by this BLT Easement. Those rights include, but are not limited to, the right to exclude any member of the public from trespassing on the Easement Parcel and the right to sell or otherwise transfer the Easement Parcel to any party or person they choose.

Further, the Grantors reserve the right to use the Easement Parcel for any agricultural use and to carry on all normal farming practices, including the operation at any time of any machinery used in agricultural production or the primary processing of any agricultural products. The Grantors retain the right to conduct upon the Easement Parcel any agricultural operation which is in accordance with good husbandry practices and which does not cause bodily injury or directly endanger human health, including any operation

directly relating to the processing, storage, or sale of farm, agricultural or woodland products produced on the Easement Parcel.

10. Responsibilities of the Grantors Not Affected -- Other than as specified herein, this BLT Easement is not intended to impose any legal or other responsibility on the Grantee, or on any existing obligation of the Grantors as the owner of the Easement Parcel. The Grantors must continue to be solely responsible for payment of all taxes and assessments levied against the Easement Parcel. The Grantors must continue to be solely responsible for the upkeep and maintenance of the Easement Parcel, and they must continue to assume any liability for personal injury or property damage occurring on the Easement Parcel. The Grantors hold the Grantee harmless from, and indemnify the Grantee against, any claim for loss or damage, including costs and reasonable attorney's fees, injury, death, property damage or other matters relating to or arising from or occurring on or about the Easement Parcel.

11. Enforcement -- The Grantee has the right and responsibility to prevent and correct violations of the terms of this BLT Easement. With reasonable advance notice to the Grantors, the Grantee may enter the Easement Parcel for the purpose of inspecting for violations. The Grantee may take appropriate legal action if the Grantee finds what it believes is a violation of this BLT Easement. Except when an imminent violation could irreversibly diminish or impair the agricultural production capability of the Easement Parcel, the Grantee must give the Grantors written notice of the violation and thirty (30) days to correct it, before filing any legal action. Any legal action taken by the Grantee to enforce the terms of this BLT Easement, include but are not limited to, obtaining injunctive relief requiring the Grantors to cease and desist any activity in violation of the terms of this BLT Easement and to return the Easement Parcel to its condition prior to any violation. If the Grantee prevails, the Grantors must pay all costs and expenses associated with the enforcement action, including but not limited to, reasonable attorneys fees. The failure of the Grantee to discover a violation or to take immediate legal action must not bar it from doing so at a later time.

12. Interpretation -- This BLT Easement shall be interpreted under the laws of the State of Maryland and Montgomery County, Maryland in a manner designed to resolve any ambiguities and questions on the validity of specific provisions to give maximum effect to its preservation purpose. If the Grantors have any doubt concerning the easement, covenants, conditions, limitations or restrictions herein contained with respect to any particular use of the Easement Parcel, it may submit a written request to the Grantee for consideration and approval of a proposed use.

13. Perpetual Duration - The easement created by this BLT Easement shall be a servitude running with the land in perpetuity. Every provision of this BLT Easement that applies to the Grantors or the Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors in interest.

14. Gender - Any masculine term used in this BLT Easement shall include the female gender.

15. Remedies -- The Grantee may enforce this BLT Easement using any remedies available at law or in equity, including but not limited to specific enforcement and injunctive relief.

16. Severability -- If any portion of this BLT Easement is declared unlawful or invalid, the remainder of this BLT Easement shall remain in full force and effect.

17. Effective Date – The Effective Date of this Easement is [insert settlement date].

**IN WITNESS WHEREOF**, the parties have caused this Building Lot Termination Easement to be duly executed and delivered by their authorized representatives.

Witness:

**GRANTORS**

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**GRANTEE**

**MONTGOMERY COUNTY,  
MARYLAND**

\_\_\_\_\_

\_\_\_\_\_  
Diane R. Schwartz Jones, Assistant  
Chief Administrative Officer

APPROVED FOR FORM AND LEGALITY  
OFFICE OF THE COUNTY ATTORNEY

By:

\_\_\_\_\_  
Vickie L. Gaul                      DATE  
Associate County Attorney

COUNTY OF MONTGOMERY  
STATE OF MARYLAND, SS:

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public of the State and County aforesaid, personally appeared \_\_\_\_\_, known to me (or satisfactory proven) to be the person whose name is subscribed to the foregoing Building Lot Termination Easement, and (s)he acknowledged that all material statements of fact in the foregoing Building Lot Termination Easement are true to the best of her/his knowledge and belief, and that the execution of this Building Lot Termination Easement is her/his free act.

\_\_\_\_\_  
Notary Public

My Commission Expires:

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COUNTY OF MONTGOMERY  
STATE OF MARYLAND, SS:

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public of the State and County aforesaid, personally appeared \_\_\_\_\_, known to me (or satisfactory proven) to be the person whose name is subscribed to the foregoing Building Lot Termination Easement, and (s)he acknowledged that all material statements of fact in the foregoing Building Lot Termination Easement are true to the best of her/his knowledge and belief, and that the execution of this Building Lot Termination Easement is her/his free act.

\_\_\_\_\_  
Notary Public

My Commission Expires:

STATE OF MARYLAND  
COUNTY OF MONTGOMERY SS:

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, before me, a Notary Public of the State and County aforesaid, personally appeared **Diane R. Schwartz Jones**, known to me (or satisfactory proven) to be the person whose name is subscribed to the foregoing Building Lot Termination Easement, and acknowledged that she is the Assistant Chief Administrative Officer of Montgomery County, Maryland, and that the execution of this Building Lot Termination Easement is her free act as Assistant Chief Administrative Officer on behalf of Montgomery County, Maryland.

\_\_\_\_\_  
Notary Public

My Commission Expires:

THE UNDERSIGNED, a member of the Bar of the Court of Appeals of Maryland, hereby certifies that the foregoing instrument was prepared by or under the supervision of the undersigned.

\_\_\_\_\_  
Vickie L. Gaul, Esq.

**Exhibit A**  
**Description of Property**

Subject to Building Lot Termination Easement  
to be conveyed by

\_\_\_\_\_ (Sellers)  
to Montgomery County, Maryland (Purchaser)

All that certain tract or parcel of land situate, lying and being in Election District \_\_\_\_,  
Montgomery County, Maryland, hereto containing \_\_\_\_\_ acres, more or less, and a total  
of \_\_\_\_\_ development rights.

Property Tax Account Nos. \_\_\_\_\_

The Easement Parcel is comprised of \_\_\_\_\_ acres with a total of \_\_\_\_\_  
development rights. \_\_\_\_\_ of the possible \_\_\_\_\_ development rights were  
serialized as Transferable Development Rights (TDRs) and recorded among the land records of  
Montgomery County, Maryland:

\_\_\_\_\_ TDRs, Serial Numbers (00-000001 – 00-00003 ) created by TDR Easement  
recorded in Liber \_\_\_\_\_ at folio \_\_\_\_\_

**Remaining development rights after the TDR Transactions = \_\_\_\_**

Number of development rights to be conveyed to Montgomery County (Purchaser) \_\_\_\_

Number of development rights to be retained by landowner (Sellers) \_\_\_\_

Total development rights:



**Exhibit A-1**  
**Metes and Bounds Description of Property**

**Exhibit B**  
**Description of On Site Waste Disposal System(s)**  
**Extinguished by this Easement**

ADDENDUM NO. 1

The purchase price for said Building Lot Termination Easement shall be \$\_\_\_\_\_.  
One acre is subtracted from the payment acres for an exiting dwelling on the Easement Parcel.

The terms of payment are as follows:

Payment or Distribution to Landowner \_\_\_\_\_  
on settlement date:  
( $\text{\$BLT PRICE/AC} \times \text{Payment acres}$ )

**Total Purchase Price** \_\_\_\_\_

FOR RECORDING PURPOSES ONLY:

Grantor's Address:

Grantee's Address:

Montgomery County, Maryland  
Department of Economic Development  
111 Rockville Pike, Suite 800  
Rockville, Maryland 20850  
240-777-2000

Title Insurer: N/A

Parcel Identifier: